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| 10/589,694 | 04/08/2008 | Neil John Barrett | U 016438-3 | 9650 |

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LADAS & PARRY LLP
1040 Avenue of the Americas
NEW YORK, NY 10018-3738

| EXAMINER |
|---|
| GONZALEZ, PAOLO |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3785 | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

nyuspatactions@ladas.com
nymail@ladas.com

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/589,694 | BARRETT ET AL. | |
| | Examiner | Art Unit | |
| | PAOLO GONZALEZ | 3785 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *03 March 2011*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-3,5-14,16-19,21,32,34,38 and 40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3, 5-14, 16-19, 21, 32, 34, 38 and 40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 August 2006* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *02/25/2011*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

1. This action is in response to the amendment filed on 03/03/2011. Currently claims 4, 15, 20, 22-31, 33, 35-37, 39 and 41-43 have been canceled and claims 1-3, 5-14, 16-19, 21, 32, 34, 38 and 40 are pending.

### *Information Disclosure Statement*

2. The information disclosure statement (IDS) submitted on 02/25/2011 is being considered by the examiner.

### *Priority*

3. Acknowledgment was made of applicant's claim for foreign priority based on an application filed in the International Bureau on 02/25/2005. It is noted, however, that applicant has not filed a certified copy of the Foreign Application #2004901054 with filing date of 03/01/2004 as required by 35 U.S.C. 119(b). Moreover, attention is directed to the fact that the date for which foreign priority is claimed in the oath or declaration (filled on 04/08/2008) is not the date of the first filed foreign application. Thus, the effective priority date of the application is 02/25/2005.

### *Drawings*

4. Figure 4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted

by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

5. **Claims 10-14, 16-19, 21, and 34 are objected to because of the following informalities:**

**Claim 10** recites the limitation "obtain measured. values" in line7. Please delete the period "." after the term "measured" to correct obvious mistake.

**Claims 11-14, 16-19, 21, and 34** are objected for incorporating the above deficiency from their respective parent claim by dependency.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Federspiel et al. (U.S. Pat. 5,170,935).**

**Regarding claims 1 and 10-12,** Federspiel et al. teach in figures 3-5 an apparatus (Elements shown in figure 3 constitute the apparatus: HVAC System 10; controller 50; plurality of sensors 62-68; user interface 56, and respective connection to controller 50, etc.) for controlling environmental parameters in a defined environment (see abstract, lines 1-3), said apparatus comprising: a memory unit (53) capable of storing data and instructions to be

performed by a processing unit (51); and the processing unit (51) coupled to said memory unit (53) (see figure 3), said processing unit (51) programmed to: obtain (through sensors 62, 64, and 66) measured values of temperature, relative humidity, and wind velocity relating to said environment (see Figure 3 and Figure 5, step 110; Col. 12, lines 10-26); convert values of temperature measured at corresponding values of relative humidity to values of perceived temperature (V, comfort index) at a constant reference value of relative humidity (see figures 5, step 120; Col. 2, lines 12-15; Col. 6, lines 52-62; where it is recited that V= comfort index, which is used to calculate a predicted thermal sensation rating which rating corresponds to a particular thermal comfort level. Also see Col. 7, line 64 to Col. 8, line 18; where it is recited the used of a constant reference value of relative humidity (vapor pressure = humidity, see Col. 12, line 24) to calculate perceived temperature (V, comfort index); and see Col. 12, lines 52-67; where it is recite calculating perceived temperature (V, comfort index) based on input from sensors 62, 64, 66, etc. Therefore, it is implicitly understood that the controller (50), which contains the processing unit (51) is converting values of temperature measured at corresponding values of relative humidity to values of perceived temperature (V, comfort index) at a constant reference value of relative humidity); and provide said values of perceived temperature (V, comfort index) for controlling said environmental parameters (see figure 5; Col. 12; line 59 to Col. 13, line 9). Federspiel et al. further teach in figure 3 and 4 further comprising an interface (56) for providing said values of perceived temperature (V, comfort index) to an environmental controller (50) (see figures 3 and 4; Col. 13, lines 13-49); and a controller (50) for controlling said environmental parameters in response to said values of perceived temperature (V, comfort index) (see Col. 11, lines 59-67; Col. 12, line 59 to Col. 11, line 9). In regards to claim 1, if a

prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *In re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986). Thus, the method, as claimed, would necessarily result from the normal operation of the apparatus.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. **Claims 1-3, 5-14, 16-19, 21, 32, 34, 38, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Timmons (U.S. Pat. Re. 33,600) in view of Federspiel et al. (U.S. Pat. 5,170,935) and further in view of NPL document ("Effective Temperature for Chicks & Broilers" by Ventilation-R. Barnwell) (hereinafter as Barnwell).**

Assuming arguendo, that applicant does not agree with the rejection of claims 1 and 10-12 as recited above, claims 1 and 10-12 are being further rejected as recited below.

**Regarding claims 1, 10, 38, and 40,** Timmons teaches in figures 1-9 an apparatus / steps (see figures 1 and figures 6-9) for controlling environmental parameters in a defined environment, which comprises a chicken house (10) (see abstract, lines 1-4; Col. 1, lines 11-15; Col. 8, lines 14-15), said apparatus comprising: an environmental controller (40); a memory unit (86, 87) capable of storing data and instructions to be performed by a processing unit (41) (see figure 4); and the processing unit (41) coupled to said memory unit (86, 87) (see figure 4); said processing unit (41) programmed to: obtain measured values of temperature , relative humidity, and wind velocity relating to said environment (see Figures 1, 2, 4, and 6-9; Col. 8, lines 55-64; Col. 9, lines 16-18; Col. 11, lines 8-9 and lines 20-29; Col. 15, lines 2-14; where it is recited that the system takes into account the speed and direction of the wind; thus it is implicitly understood that the processing unit 41 is obtaining wind velocity; Col. 11, lines 43-46 and lines 65-68). Timmons further teaches wherein the processing unit (41) calculates a rate of ventilation VT which is required to maintain the interior temperature at each of a plurality of temperature increments between a maximum and minimum values which are safe for the chickens and that the processing unit (41) further calculates for each temperature increment a ventilation rate (VH) needed to control the moisture level of the interior air so as to produce the air relative humidity preselected by input 64 (a constant reference value of relative humidity). The calculation of VH is further dependent on the outside air dew point (see Col. 13, lines 49-66); thus the ventilation rates are determined by the temperature and humidity parameters (see Col. 15, lines 9-10) and as a function on characteristics of the chickens, such as age and weight of said chickens (see figures

6 and 8, steps 104 and 134; Col. 15, lines 35-45; Col. 16, lines 21-44). Timmons further teaches that based on the ventilation rates VT or VH, the processing unit (41) will control (activate and/or de-activate) fans (30, 31, and 32) and related equipment (heaters 34, 35, 36) in said chicken house (10) (see Col. 8, lines 55-60; Col. 9, lines 6-15; Col. 10, line 68 to Col. 11, line 3; Col. 11, lines 35-37Col. 14, lines 1-5; Col. 15, lines 9-25).

However, Timmons fails to explicitly recite wherein the processing unit convert values of temperature measured at corresponding values of relative humidity to values of perceived temperature at a constant reference value of relative humidity; nor provide said values of perceived temperature for controlling said environmental parameters; nor wherein the processing unit is programmed to determine wind chill as a function of said measured values of temperature and wind velocity, and at least one characteristic of chickens in said chicken house; nor determine values of perceived temperature at a constant reference value of relative humidity as a function of corresponding wind chill-compensated values of temperature measured at corresponding values of relative humidity and at least one characteristic in said chicken house; and nor controlling said environmental parameters in response to said values of perceived temperature.

Nevertheless, Federspiel et al. teach in figures 3-5 an apparatus (Elements shown in figure 3 constitute the apparatus: HVAC System 10; controller 50; plurality of sensors 62-68; user interface 56, and respective connection to controller 50, etc.) for controlling environmental parameters in a defined environment (see abstract, lines 1-3), said apparatus comprising: a memory unit (53) capable of storing data and instructions to be performed by a processing unit (51); and a processing unit (51) coupled to said memory unit (53) (see figure 3), said processing

unit (51) programmed to: obtain (through sensors 62, 64, and 66) measured values of temperature, relative humidity, and wind velocity relating to said environment (see Figure 3 and Figure 5, step 110; Col. 12, lines 10-26); convert values of temperature measured, , relative humidity, and wind velocity to values of perceived temperature (V, comfort index) (see figures 5, step 120; Col. 2, lines 12-15; Col. 6, lines 52-62; where it is recited that V= comfort index, which is used to calculate a predicted thermal sensation rating which rating corresponds to a particular thermal comfort level. Also see Col. 7, line 64 to Col. 8, line 18; where it is recited the used of a constant reference value of relative humidity (vapor pressure = humidity, see Col. 12, line 24) to calculate perceived temperature (V, comfort index); and see Col. 12, lines 52-67); where it is recite calculating perceived temperature (V, comfort index) based on input from sensors 62, 64, 66, etc. Therefore, it is implicitly understood that the controller (50), which contains the processing unit (51) is converting values of temperature measured at corresponding values of relative humidity to values of perceived temperature (V, comfort index)); and provide said values of perceived temperature (V, comfort index) for controlling said environmental parameters (see figure 5; Col. 12; line 59 to Col. 13, line 9).

Furthermore, Barnwell teaches that poultry companies should work actively with the effective/perceived temperature concept, which is to temperature that the chickens really feel (see page 1, 1st paragraph). Barnwell further teaches wherein the effective/perceived temperature = Dry Bulb Temperature with Relative and Air Speed (Wind Chill Index) across the chickens (see page 1, figure) and Barnwell further teaches how to determined what should be the airspeed for the chickens to feel comfortable with using temperature and relative humidity values (see

page 2, top figure) and how to determine effective temperature (°F + RH% = Index) and how to interpret this index in accordance to the health of the chickens (see page 2, bottom figure).

One of ordinary skill in the art would recognized that it is well known and a scientific principle the equation on how to calculate wind chill values, which is dependant on ambient temperature and wind speed. Therefore, Official Notice is taken that is old and well known how to calculate a wind chill value based on measured values of temperature and wind velocity (see as evidence NPL document titled "Calculating Windchill Values").

Therefore, since Timmons uses a controller that is measuring environmental parameter within a chicken house and using these parameters to calculate another value based on the environmental parameters and based on the chickens characteristics; and since Federspiel et al. teaches a controller applying the control technique of calculating an effective temperature based on measured values of temperature, relative humidity, and wind velocity relating to said environment (see Figure 3 and Figure 5, step 110; Col. 12, lines 10-26) and to control environmental parameters within the conditioned room by activating an HVAC system (see figure 3 and 5, steps 110, 120, and 130); and since Barnwell teaches the how important is to control the environment of a poultry house using the effective temperature and since Barnwell further teaches how to calculate the air speed and effective temperature for the chickens to feel comfortable; and since it is old and well known the equation of determining wind chill; Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Timmons's controller to include the teachings in view of Federspiel et al. and Barnwell so as to have the processing unit of the controller in view of Timmons program to calculate an effective/perceived temperature value based on environmental

parameters (temperature, relative humidity, wind velocity, wind chill) and/or based on a characteristic (age and/or weight) of said chickens and to control fans and related equipment based on this effective/perceived temperature value so as to obtain the maximum of feed energy into growth (GPD) of the chickens in order to have the chicken use the GPD to grow and not to maintain their (chickens) body temperature; thus reducing mortality rate of the chickens; also so as to improve the control system of a chicken house by having a adaptive control that is inputting real time variables into its control algorithm in order to control environmental parameter within a room so as to improve the comfort level of the occupant(s), thus making the system more reliable since the accuracy of the system is improve due to adaptability feature; and so as to make the system more energy efficient by activating the equipment only when is need to control the environmental conditions of the chicken house, thus reducing the cost to run the poultry.

**Regarding claims 2 and 13**, Timmons as modified teach the invention as recited above, Timmons further teaches wherein said defined environment comprises a chicken house (10) (see abstract, lines 1-4; Col. 1, lines 11-15; Col. 8, lines 14-15); and Barnwell further teaches wherein said perceived temperature is representative of a temperature perceived by the chickens in said chicken house (see page 1, 1st paragraph).

**Regarding claims 3, 8, 14, and 19**, Timmons as modified teach the invention as recited above, Timmons further teaches the control technique of calculating a ventilation rate (VH) as a function on characteristics of the chickens, such as age and weight of said chickens (see figures 6 and 8, steps 104 and 134; Col. 15, lines 35-45; Col. 16, lines 21-44). Thus, Timmons as modified teach wherein said perceived temperature is a function of a characteristic of said chickens.

**Regarding claims 5 and 16**, Timmons as modified teach the invention as recited above, and Timmons further teaches the step of wherein the processing unit (41) calculates an optimum inside temperature and an optimum operation based on data provided by inputs 60, 62, and 64, which are characteristic of said chickens, such as age of the chickens (see Col. 9, lines 53-58; Col. 10, lines 27-31; Col. 11, lines 30-37; Col. 12, lines 14-51; Col. 15, lines 35-45; Col. 16, lines 21-44); and Timmons further teaches the control algorithm of calculating a rate of ventilation VT which is required to maintain the interior temperature at each of a plurality of temperature increments between a maximum and minimum values which are safe for the chickens (see Col. 13, lines 56-61). Moreover, Barnwell further teaches calculating hot (Index #170) and cold (Index #150) stress limits (Index #) for said chickens based on said a perceived temperature (see page 2, figure on the bottom),

However, Timmons as modified fail to explicitly recite calculating an optimum perceived temperature based on a characteristic of said chickens; and wherein said hot and cold stress limits correspond to temperature values above and below said optimal perceived temperature, respectively.

Since Timmons teaches the control technique of calculating an optimum value based on characteristic of said chickens and the control algorithm of having an upper and lower value of temperature to maintain an interior temperature; It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Timmons as modified to use the control techniques as recited above to calculate an optimum perceived temperature based on a characteristic of said chickens and to have said hot and cold stress limits correspond to temperature values above and below said optimal perceived temperature, respectively, so as to

assure the safety of the chickens, and so as reduce mortality rate of the chickens, thus so as to increase the production of the chickens.

**Regarding claims 6 and 17**, Timmons as modified teach the invention as recited above, and Barnwell further teaches calculating stress levels (Index #) experienced by said chickens as a function of said stress limits and said perceived temperature (see page 2, figure on the bottom),

**Regarding claims 7 and 18**, Timmons as modified teach the invention as recited above, and Barnwell further teaches calculating a value of accumulated stress (Index #) of said chickens (see page 2, figure on the bottom). Moreover, Barnwell further teach the importance of keeping an optimum air speed, humidity and temperature over the chickens during different time period of growth (first 14 days, first 21 days, over 28 days) of the chickens (production cycle) (see page 1, lines 10-15).

However, Timmons as modified fail to explicitly recite calculating the value of accumulated stress of the chickens during a production cycle.

Nevertheless, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Timmons as modified to calculate a value of accumulated stress of the chickens during a production cycle so as to improve the comfort level of the chickens, thus so as to obtain the maximum of feed energy into growth (GPD) of the chickens instead of using the GPD to maintain their (chickens) body temperature.

**Regarding claims 9 and 21**, Timmons as modified teach the invention as recited above, and Federspiel et al. further teaches wherein said perceived temperature (V, comfort index) comprises a temperature perceived by a living being in said defined environment, said living

being selected from the group of living beings: human beings (see Col. 2, lines 9-41; Col. 6, lines 52-58; Col. 11, lines 62-67).

**Regarding claim 11**, Timmons as modified teach the invention as recited above, and Timmons further teaches comprising an interface (76, 78, 80) capable of providing data being supplied (such as temperature inside and outside the chicken house) to the environmental controller (40) (see Col. 63-68; and Col. 11, lines 41-46 and lines 65-68).

**Regarding claim 12**, Timmons as modified teach the invention as recited above, and Federspiel et al. further teach comprising controller (50) capable of controlling said environmental parameters in response to said values of perceived temperature (see figure 3).

**Regarding claims 32 and 34**, please see rejection of claims 1, 10, 38 and 40 since the claims recite similar subject matter.

***Response to Arguments***

11. Applicant's arguments filed 03/03/2011 have been fully considered but they are not persuasive.

In response to applicant's remark (page 14, 1st ¶) that a replacement drawing sheet is submitted to address the drawing objection; it is noted that **no** replacement sheet of Fig. 4 has been received by the office. Therefore, the drawing objection as recited above is being maintained.

In response to applicant's arguments (page 15, 4th ¶) that Federspiel et al. fail to disclose converting values of temperature measured at corresponding values of relative humidity to values of perceived temperature at a constant reference value of relative humidity, the examiner respectfully disagrees. Federspiel et al. disclose obtaining (through sensors 62, 64, and 66)

measured values of temperature, vapor pressure/relative humidity (see Col. 12, line 24, where it is recited that vapor pressure can be humidity, thus relative humidity), and wind velocity relating to said environment (see Figure 3 and Figure 5, step 110; Col. 12, lines 10-26). Federspiel et al. further disclose calculating values of perceived temperature (V, comfort index) using a control algorithm (see figures 5, step 120; Col. 2, lines 12-15; Col. 6, lines 52-62) based on input from sensors 62 (sensing temperature), 64 (sensing ambient vapor pressure, such as relative humidity; see Col. 12, line 24), 66 (sensing wind velocity), etc (see Col. 12, lines 21-24 and lines 52-67) and based on a constant reference value of vapor pressure (see Col. 12, line 24, where it is recited that vapor pressure can be humidity, thus relative humidity) (see Col. 7, line 64 to Col. 8, line 18). Therefore, it is implicitly understood that the controller (50), which contains the processing unit (51) is converting values of temperature measured (sensed by sensor 62) at corresponding values of relative humidity (sensed by sensor 64) to values of perceived temperature (V, comfort index) at a constant reference value of relative humidity. Therefore, the applicant's arguments are unpersuasive and the rejection is maintained.

In response to applicant's arguments (page 17, 2nd ¶ to page 18, 1st ¶) against the references individually, it has been held that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. Thus, combination of the teachings of Timmons, Federspiel, and Barnwell teach the invention as recited above. Therefore, the applicant's arguments are unpersuasive and the rejection is maintained.

In response to applicant's argument (page 18, 1st ¶) that Barnwell is not a prior art reference due to its date of year 2004; the examiner respectfully disagrees. Application claims

priority to PCT/AU2005/000271 with filling date of 02/25/2005 (see oath or declaration filed on 04/08/2008). Thus, the effective date of the application is 02/25/2005. Therefore, the applicant's arguments are unpersuasive and the rejection is maintained.

In response to applicant's arguments (page 18, 2nd ¶) that the claimed invention would not have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Timmons to include the teachings of Federspiel and Barnwell. It is noted that applicant's argument fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references, thus why it would not be obvious to one of ordinary skill in the art to make such modification. Therefore, the applicant's arguments are unpersuasive and the rejection is maintained.

In the Office Action dated 09/29/2010, the Examiner took Official Notice that it is old and well known in the refrigeration art how to calculate a wind chill value based on measured values of temperature and wind velocity. Applicant has failed to traverse the(se) statement(s). As such, and in accordance with MPEP §2144.03, the statements are now considered admitted prior art.

***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAOLO GONZALEZ whose telephone number is (571)270-1490. The examiner can normally be reached on Monday - Friday, 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reach on (571) 272-7075 or Cheryl J. Tyler can be reached on (571)272-4834 or Frantz Jules can be reached on (571)272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PAOLO GONZALEZ/
Examiner, Art Unit 3785

/Cheryl J. Tyler/
Supervisory Patent Examiner, Art Unit 3744